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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,497	03/23/2004	Christopher L. Oesterling	GP-304388	2771

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EXAMINER

ZEWDU, MELESS NMN

ART UNIT PAPER NUMBER

2617

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/806,497	<b>Applicant(s)</b> OESTERLING ET AL.	
	<b>Examiner</b> Meless N. Zewdu	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the communication filed on 7/19/06.
2. Claims 8-14 have been added.
3. Claims 1-14 are pending in this action
4. This action is final.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellaker in view of Kobayashi et al. (Kobayashi) (2005/0014487 A1).

**As per claim 1:** Hellaker discloses, a method for telematics data transfer comprising the steps of:

monitoring parameters for personal communications made through a telematics

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unit in a vehicle between the telematics unit and at least one remote location (see abstract; claim 1). The private call in the prior art is made through the vehicle's communication system (telematics) and it includes data call to a remote station.

determining a communication requirement for communicating between the telematics unit and the remote location (see paragraphs 0031; 0041; claim 1). But, Hallaker does not explicitly teach about scheduling a telematics unit communication based on the monitored parameters and communication requirement, and thereafter executing the scheduled communication, as claimed by applicant. However, in the same field of endeavor, Kobayashi teaches about a method and apparatus for performing noise control in a telematics system, wherein the telematics control, utilizing a voice recognition, determines whether a wireless connection is a phone call (hands free phone call) or a telematics (voice recognition) and if it is determined that the call is a hands free call, the hands free call is selected while the telematics connection is not active until the handse free connection (personal communication) is completed, following which the telematics connection is returns to active state (IVR) as a default state (see paragraphs 0007-0009, 0018). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the teaching of Hallaker with that of Kobayashi for the advantage of controlling noise in a telematics unit (see paragraph 0003).

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**As per claim 3:** Hellaker discloses, a method, wherein the determined communication is an outbound communication from the vehicle to the remote location (see paragraph 0029). The prior art's emergency call is an outbound call from a vehicle to a remote station.

**As per claim 5:** the features of claim 5 are similar to the features of claim 1. Hence, claim 5 is rejected on the same ground and motivation as claim 1.

**As per claim 7:** most of the features of claim 7 are similar to the features of claim 1 and are rejected on the same ground as claim 1. The difference feature, - a communication scheduler (telematics control) for scheduling and executing a data transfer communication in the data transfer at a time determined using the monitored parameters and selected so as to increase the likelihood that the data transfer will successfully complete without being interrupted by activation of the personal communication mode is taught by Kobayashi (see paragraphs 0007-0009, 0018-0022). The time determined is when the user completes hands free (personal communication) communication and the further, telematics and the personal (hands free) communications are not interrupting each other because only one mode is active at a time. The motivation is same as provided in the rejection of claim 1 above.

Claims 2, 4 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references and further in view of Fuchs et al. (Fuchs) (US 6,970,703 B2).

**As per claim 2:** But, Hellaker does not explicitly teach about a method, also comprising the step of creating a profile of the monitored parameters, wherein the step of

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scheduling and executing is responsive to the profile, as claimed by applicant. However, in a related field of endeavor, Fuchs teach about an integrated personal communications system and a telematic device coupled with a vehicle (see abstract), wherein a user creates a profile to personalize or preset a telematic device in association with a remote service providing entity (see col. 7, lines 7-44). The profile can be stored in the local (vehicle) telematics system or in the remote service providing entity. When the two references are combined, as shown hereinabove, the call relating to a requested service will be made based on Hellaker's priority (scheduling).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the teaching of Hellaker with that of Fuchs for the advantage of satisfying the desire of today's wireless subscribers that the vast array of features available to both telematics and a personal wireless services be integrated into one wireless device (see col. 1, lines 54-57).

**As per claim 4:** Fuchs teaches a method, also comprising the step of:

transferring the profile to the remote location (see col. 7, lines 29-44), wherein the determined call is an inbound communication from the remote location to the telematics unit (see col. 7, lines 31-44). According to Fuchs' reference, the profile is either pushed or pulled, which indicates outbound and inbound calls made.

**As per claim 6:** the feature of claim 6 is similar to the feature of claim 2. Hence, claim 6 is rejected on the same ground and motivation as claim 2.

**As per claim 7:** most of the features of claim 7 are similar to the features of claim 1 and hence, the similar features are rejected on the same ground as claim 1. Furthermore,

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Hellaker discloses a data transfer mode responsive to the monitoring parameters to increase likely-hood of success of the data transfer communication and minimize interruption by a personal communication (see paragraph 0045). But, Hellaker does not explicitly teach about a time determined using the monitored parameters and selected so as to increase the likely-hood that the data transfer will successfully complete without being interrupted by activation of the personal communication mode, as claimed by applicant. However, in the same field of endeavor, Fuchs teaches about integrated personal communications system and method wherein the

**As per claim 12:** Kobayashi teaches a method, wherein the scheduling step further comprises scheduling the telematics unit communication a time during which there is a decreased likelihood that the scheduled communication will be interrupted by the personal communication made through the telematics unit (see paragraphs 0007-0009, 0018). In Kobayashi, the telematics and personal communication are differentiated and treated so as to decrease the likelihood of data loss. Motivation is same as provided in claim 1 above.

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references and, further in view of Marko et al. (Marko) (US 6,993,316 B2).

**As per claim 8:** the above references do not explicitly teach about whether the scheduled communication must be placed when the vehicle is running, as claimed by applicant. However, in the same field of endeavor, Marko teaches about a vehicle communication system including a primary (alternator) and secondary (battery) power sources, wherein the vehicle receives scheduled data when the vehicle's ignition is

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running (see col. 2, lines 45-54). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above references with the teaching of Marko for the advantage of not to drain the vehicle's battery below specifications (see col. 2, lines 5-17).

**As per claim 9:** Marko teaches about a method, wherein the communication requirement is a predicted time duration for the scheduled communication (see col. 2, lines 45-54). A scheduled time is a predicted time.

**As per claim 13:** Marko teaches a method, further comprising the step of determining an outbound call requirement indicative of whether the outbound call must be placed when the vehicle is running, wherein the scheduling and executing step further comprises executing the outbound call in accordance with the call requirement (see col. 2, lines 45-67). Although Marko's references teaches scheduling in the receiving mode, it would have been obvious for one of ordinary skill in the art to use the same technique in the transmission mode if the user has a large data transmit because the transmission of a large data can drain the battery of the vehicle below specification, as reasoned for reception. The motivation is same as provided in the rejection of claim 8 above.

**As per claim 14:** Marko teaches a method, further comprising the step of determining an outbound call requirement indicative of the predicted duration (scheduled) of the outbound call, wherein the scheduling and executing step further comprises scheduling the outbound call using the parameters and predicted duration of the outbound call (see col. 2, lines 45-67).



**As per claim 14:** the feature of claim 14 is similar to the feature of claim 13, in that a call received by the vehicle's telematics system is an outbound call and the call is according to schedule which in other words is a predicted duration. Hence, claim 14 is rejected on the same ground and motivation as claim 13.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references and further in view of Roach, Jr.(Roach) (US 6,044,265).

**As per claim 10:** the above references do not explicitly teach features recited in claim 10, but Roach, in the same field of endeavor teaches a method of determining a time at which not personal communication is expected based on the monitored parameters and the time (see col. 4, lines 45-62) and scheduling the telematics unit communication at determined time (see col. 4, lines 55-62). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above references with the teaching of Roach for the advantage of minimizing interference to normal operation on the system (see col. 4, lines 45-62). According to the reference, communication takes place in early morning hours when traffic is off-peak. Motivation is same as provided in claim 10 above.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N. Zewdu whose telephone number is (571) 272-7873. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corsaro Nick can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

Meless zewdu

A handwritten signature in black ink, appearing to read 'Meless zewdu', written in a cursive style.

Examiner

11 September 2006.